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**ARIZONA ATTORNEY GENERAL**

August 4, 1941

*Order*

Mr. John M. Foote,  
Supervisor of Inspection,  
Arizona Fruit and Vegetable  
Standardization Service,  
606 Security Building,  
Phoenix, Arizona.

Dear Mr. Foote:

We have your letter of recent date in which you state:

"In the recently enacted amendment to the Arizona Citrus Fruit Standardization Act (S.B. 73, Chap. 121, Section 49-922) it is provided 'Grapefruit and oranges (lemons), except tangerines and mandarins, shall be regularly packed throughout in closed standard containers \* \* \* \*'."

Clearly the intent of the Legislature was to stop the indiscriminate movement of grapefruit and oranges into interstate commerce, either unpacked or in non-standard boxes and crates.

In the Yuma district for several years past a group of grapefruit growers have been members of a cooperative located in California. Their fruit has been hauled there in bulk for grading and packing. Is the Standardization Service to interpret the amendment as prohibiting these growers in the future from shipping their fruit loose and unpacked into California for grading and packing or do the provisions of the Citrus Fruit Standardization Act, Section 19, relating to the movement of bulk fruit apply? This section grants the enforcement officer rather broad powers where the movement of bulk fruit is concerned. Does this apply only to the movement of bulk fruit within the state of Arizona, and can this Department reasonably claim to have jurisdiction over fruit after it leaves the state of Arizona and is within the borders of the State of California?

Can other Arizona growers, not affiliated with California cooperatives, claim the privilege of transporting their fruit to Pacific Coast markets for packing and if they are so privileged, will it tend to break down and nullify the purpose of this Act?"

Mr. John M. Foote

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You will note that Chapter 121 of the Session Laws of 1941 amends only 49-921 and 49-922 of the 1939 Code and does not attempt to amend Section 49-919 of said Code. The last mentioned section reads as follows:

"Selling in bulk. No provision of this act shall be construed to prevent a grower of citrus fruits in the state from selling or delivering the same unpacked and unmarked, as a part of his crop in bulk, to a packer for grading, packing or storage; or to prevent a grower or packer from manufacturing the same into any by-product, or from selling the same unpacked or unmarked to any person actually engaged in the operation of a commercial by-products factory for the sole and express purpose of being used in the state in the manufacture of a by-product for resale.

Any enforcement officer may require from the owner and/or shipper of citrus fruits such written or other proof as may be reasonably necessary that such citrus fruits will be used only as permitted by this section and shall hold such fruit until satisfactory proof is given that the same will be so used."

Therefore it is our opinion that under said Section 49-919, growers of citrus fruit or association of growers, may sell or deliver citrus fruit unpacked and unmarked in bulk to a packer for packing, grading, storage or manufacturing the same into by-products whether the place of delivery is within or without the State, and that such fruit may be received from the growers or association of growers, and transported by the packers so long as they represent the growers or association of growers. However if citrus fruit as defined in said Chapter is transported for the purpose of sale by persons other than the growers, or association of growers, or packers representing such growers or association then such persons would be subject to the provisions of the above mentioned laws. In other words persons may not purchase citrus fruit and transport the same in bulk for sale without having the same packed and marked as required by law.

Yours truly,

JOE CONWAY  
Attorney General

EARL ANDERSON  
Special Assistant Attorney General